

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :  
: CRIMINAL ACTION  
v. : NO. 99-730  
ANDREW BROWN :  
:

**ORDER**

**AND NOW**, this 16th day of July, 2013, upon consideration of defendant's motion entitled "Independent Action under Rule 60(d)(1) of Federal Rules of Civil Procedure Savings Clause Seeking to Set Aside the Memos and Orders of June 28, 2005 and October 18, 2006 Due to the Discovery of Facts Amounting to a Grave Miscarriage of Justice And/or Unjust Judgement" (Document No. 165), and the government's response thereto, **IT IS HEREBY**

**ORDERED** that:

1. Defendant's motion is **DISMISSED** for lack of jurisdiction because defendant has not received authorization from the Third Circuit to file a second or successive § 2255 motion. 28 U.S.C. § 2255(h).
2. Defendant has already applied for permission to file a second or successive motion under § 2255 based on the full radio dispatch transcript, which was denied by the Third Circuit on March 29, 2012. (Document No. 164.) Therefore, the instant motion is dismissed **WITH PREJUDICE**.
3. A certificate of appealability will not issue for the reasons set forth in the accompanying memorandum.

/s/ William H. Yohn Jr., Judge  
William H. Yohn Jr., Judge